

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-196

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF PHYSICIANS MUTUAL INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Physicians Mutual Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated February 6, 2004 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as an accident and health insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on February 6, 2004, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure to maintain an access plan as required by Colorado insurance law. The Respondent shall provide evidence that it established procedures to ensure that it will maintain and make available an access plan for each managed care network offered in Colorado in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue A2 concerns the following violation: Certifying and using forms that do not comply with Colorado insurance law. The Respondent shall provide evidence that it established procedures to ensure that all forms issued or delivered to Colorado insureds comply with statutory mandates as certified by an officer of Respondent in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue E1 concerns the following violation: Failure to provide benefits for covered services based on a licensed provider's status. The Respondent shall provide evidence to ensure that it revised all applicable forms to reflect that benefits are not denied solely based on a provider's status as a family member or residing with the insured in compliance with Colorado insurance law.

12. Issue E2 concerns the following violation: Failure to reflect correct or complete benefits for mammography screening. The Respondent shall provide evidence that it revised all applicable forms to reflect correct and complete benefits for the mandated coverage of mammography screening to ensure compliance with Colorado insurance law.
13. Issue E3 concerns the following violation: Failure to reflect an accurate description of the mandated coverage for prostate cancer screening. The Respondent shall provide evidence that it revised all applicable forms to reflect an accurate and non-contradictory description of the mandated coverage for prostate cancer screening to ensure compliance with Colorado insurance law.
14. Issue E4 concerns the following violation: Failure to display a fraud warning that is substantially the same as required by Colorado insurance law. The Respondent shall provide evidence that it revised all applicable forms that display the required fraud warning statement to reflect substantially the same wording to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue E5 concerns the following violation: Failure to disclose the existence and availability of an access plan in the most frequently sold policy in Colorado. The Respondent shall provide evidence that it revised its health benefit plans to clearly disclose the existence and availability of an access plan for each managed care network offered in Colorado to ensure compliance with Colorado insurance law.
16. Issue E6 concerns the following violation: Failure to reflect correct information in the Notice to Applicant Regarding Replacement of Accident and Sickness Insurance. The Respondent shall provide evidence that it revised its Notice to Applicant Regarding Replacement of Accident and Sickness Insurance (Appendix A) to reflect correct information to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue E7 concerns the following violation: Failure to reflect correct information in application forms concerning replacement of coverage. The Respondent shall provide evidence that it revised all application forms to reflect correct and complete information concerning replacement of coverage to ensure compliance with Colorado insurance law.
18. Issue E8 concerns the following violation: Failure to reflect an accurate description of the mandated therapies for congenital defects and birth abnormalities for children. The Respondent shall provide evidence that it

revised all applicable policy forms and endorsements to reflect accurate and complete information concerning the mandated therapies provided for congenital defects and birth abnormalities in children to ensure compliance with Colorado insurance law.

19. Issue E9 concerns the following violation: Failure to reflect correctly the criteria for and the extent of coverage to be provided for home health services and hospice care. The Respondent shall provide evidence that it revised all applicable forms and endorsements to reflect the criteria for, and extent of coverage provided for home health services and hospice care to ensure compliance with Colorado insurance law.
20. Issue E10 concerns the following violation: Failure to reflect correct or complete preventive child health supervision service benefits. The Respondent shall provide evidence that it revised its policy forms to reflect correct and complete preventive child health supervision service benefits to ensure compliance with Colorado insurance law.
21. Issue E11 concerns the following violation: Failure to reflect correct information in the CoverColorado notice form. The Respondent shall provide evidence that it revised its CoverColorado standardized notice form to reflect correct and complete information to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
22. Issue E12 concerns the following violation: Failure to reflect correct information concerning non-renewal of health benefit plans. The Respondent shall provide evidence that it revised its policies to reflect correct information concerning non-renewal of both a particular health benefit plan and non-renewal of all plans delivered or issued for delivery in Colorado to ensure compliance with Colorado insurance law.
23. Issue E13 concerns the following violation: Failure to reflect correct information concerning coverage for pre-existing conditions. The Respondent shall revise its policy forms to reflect correct information regarding exclusion of coverage for pre-existing conditions to ensure compliance with Colorado insurance law.
24. Issue E14 concerns the following violation: Failure to reflect a correct limiting age for full-time students to remain covered as dependents. The Respondent shall provide evidence that it revised its policy forms to reflect the correct limiting age for full-time students to remain covered as dependents to ensure compliance with Colorado insurance law.
25. Issue E15 concerns the following violation: Failure to reflect correct or complete questions on the form used for determining whether or not an

applicant is a Self-Employed Business Group of One. The Respondent shall provide evidence that it revised its Determination of Self-Employed Business Group of One form to reflect correct and complete questions for making this determination to ensure compliance with Colorado insurance law.

26. Issue G1 concerns the following violation: Failure to use required disclosure forms to allow exemption from provisions required of small group plans when selling individual plans to Business Groups of One. The Respondent shall provide evidence that necessary exception forms are obtained from applicants and a standard health benefit plan description form is provided to applicants when selling individual plans to Business Groups of One to ensure compliance with Colorado insurance law.
27. Issue H1 concerns the following violation: Failure to send Certificates of Creditable Coverage within a reasonable time period. The Respondent shall provide evidence that it established procedures to ensure that after termination of coverage, Certificates of Creditable Coverage are provided within a reasonable time period in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
28. Issue J1 concerns the following violation: Failure, in some cases, to pay, deny or settle claims within the time periods required by Colorado insurance law. The Respondent shall provide evidence that it established procedures to ensure that all claims are paid, denied or settled within the required time periods in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
29. Issue J2 concerns the following violation: Failure to accurately determine the number of days utilized for claim processing. The Respondent shall provide evidence that it established the necessary procedures to accurately determine the number of days used to process claims to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
30. Issue J3 concerns the following violation: Failure, in some cases, to accurately process claims. The Respondent shall provide evidence that it established the necessary procedures to ensure that claims are reviewed for accuracy of payment in compliance with Colorado insurance law.
31. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of seventeen thousand five hundred and no/100 dollars (\$17,500.00). This fine represents a combined fine for

the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.

32. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
33. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
34. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
35. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination Report dated February 6, 2004, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 3rd day of June, 2004.



Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of June, 2004, I deposited the within **FINAL AGENCY ORDER NO. O-04-196 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF PHYSICIANS MUTUAL INSURANCE COMPANY**, in the United States Mail with postage affixed and addressed to:

Mr. Robert A. Reed, President
Physicians Mutual Insurance Company
2600 Dodge Street
Omaha, NE 68131

A handwritten signature in cursive script, reading "Dolores Arrington".

Dolores Arrington, MA, AIRC
Market Conduct Section
Division of Insurance